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SALIWANCHIK, LLOYD & EISENSCHENK
A PROFESSIONAL ASSOCIATION
PO Box 142950
GAINESVILLE FL 32614

PCT LEGAL ADMINISTRATION

In re Application of :
HICKEY, Magali Bourghol, et al. :
Application No.: 10/599,010 :
PCT No.: PCT/US2005/009305 :
Int. Filing Date: 17 March 2005 : **DECISION**
Priority Date: 19 March 2004 :
Attorney's Docket No.: TPI-5053C3XC1T :
For: NOVEL PHARMACEUTICAL FORMS, :
AND METHODS OF MAKING AND :
USING THE SAME :

This application is before the Office of PCT Legal Administration for matters arising under 35 USC 371.

BACKGROUND

On 30 April 2007, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors and the surcharge for late filing of the search fee, examination fee or oath of declaration were required.

On 02 July 2007, applicants furnished a declaration of the inventors listing seven inventors. The international application lists nine.

On 01 August 2007, the Office mailed a Notification of Acceptance (Form PCT/DO/EO/903) indicating that the application had satisfied the requirements under 35 USC 371(c)(1), (c)(2) and (c)(4) and all of 35 USC 371 on 02 July 2007.

On 09 November 2007, applicants submitted this request under 37 CFR 1.48(b) requesting the removal of inventors Bis and McMahon.

DISCUSSION

The Notification of Acceptance mailed 01 August 2007 issued in error. Under 37 CFR 1.41(a)(4), the inventorship of the international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any changes effected under PCT Rule 92*bis*. An oath or declaration reflecting that international stage inventorship is required. Such an oath or declaration has not been furnished.

A petition under 37 CFR 1.48(b) is to add or remove an inventor from a non-provisional application to correct the inventorship after an amendment. This application is not yet a non-provisional as it has not satisfied the requirements of under 35 USC 371. Should applicants need to change the inventorship in the national stage application on account of a preliminary amendment, that can be done with a petition under 37 CFR 1.48(b), AFTER the application satisfies the requirements for entry into the national stage, including a declaration in compliance with 37 CFR 1.497(a)-(b).

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

CONCLUSION

For the above reasons, applicant's declaration does not comply with 37 CFR 1.497(a)-(b) and the petition under 37 CFR 1.48(b) will not be acted upon at this point.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed 01 August 2007 is **VACATED**.

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required within **TWO (2) MONTHS** from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292